

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARCUS ANTHONY MICOLO,

Petitioner,

TRANSFER ORDER
15-CV-0375 (JS)

-against-

UNITED STATES OF AMERICA,

Respondent.

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APPEARANCES

For Petitioner: Marcus Anthony Micolo, pro se
 03A3985
 Five Points Correctional Facility
 State Route 96
 P.O. Box 119
 Romulus, NY 14541

For Respondent: No appearance.

SEYBERT, District Judge:

On January 16, 2015, petitioner Marcus Anthony Micolo ("Petitioner"), appearing pro se, filed a Petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2255 challenging his July 22, 1996 judgment of conviction for bank robbery entered in the United States District Court for the Middle District of Florida. For the reasons set forth below, the Court transfers the Petition to the Middle District of Florida in the interest of justice pursuant to 28 U.S.C. § 1406(a).

Pursuant to 28 U.S.C. § 2255(a), a petitioner "may move the court which imposed sentence to vacate, set aside or correct the sentence." Because Petitioner challenges the validity of his criminal conviction and sentence, venue is proper in the district

of conviction. "The district court of a district in which is filed a case laying venue in the wrong division or district shall . . . in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a). Accordingly, in the interest of justice, the Clerk of the Court is respectfully directed to transfer this case to the United State District Court for the Middle District of Florida. The Court makes no finding on the merits of Petitioner's claims.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is DENIED for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962). The Clerk of the Court is further directed to mail a copy of this Transfer Order to the pro se Petitioner and to mark this case CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: February 12, 2015
Central Islip, New York